

1 KEVIN C. POWERS, General Counsel
Nevada State Bar No. 6781

2 NEVADA LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson St.

3 Carson City, NV 89701

Tel: (775) 684-6830; Fax: (775) 684-6761

4 Email: kpowers@lcb.state.nv.us

*Attorneys for Legislative Defendants Brenda J. Erdoes, in her official capacity as Director of the
5 Legislative Counsel Bureau of the State of Nevada, and Nicole J. Cannizzaro, in her official
6 capacity as Chair of the Legislative Commission of the State of Nevada*

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 SHAWN MEEHAN, an individual; JANINE
HANSEN, an individual; LYNN
10 CHAPMAN, an individual; and MELISSA
CLEMENT, an individual,

11 Plaintiffs,

12 vs.

13 STEPHEN F. SISOLAK, in his official
capacity as Governor of the State of Nevada;
14 AARON DARNELL FORD, in his official
capacity as Attorney General of the State of
15 Nevada; BRENDA J. ERDOES, in her
official capacity as Director of the Legislative
16 Counsel Bureau of the State of Nevada;
NICOLE J. CANNIZZARO, in her official
17 capacity as Chair of the Legislative
Commission of the State of Nevada; and
18 DOES 1 through 100,

19 Defendants.

Case No. 3:21-cv-00100-MMD-WGC

**LEGISLATIVE DEFENDANTS’
MOTION FOR EXTENSION OF TIME
BECAUSE RECENT LEGISLATIVE
DEVELOPMENTS COULD RENDER
CERTAIN ISSUES MOOT
(First Request)**

MOTION

Legislative Defendants Brenda J. Erdoes, in her official capacity as Director of the Legislative Counsel Bureau of the State of Nevada (“Director Erdoes”), and Nevada State Senator Nicole J. Cannizzaro, in her official capacity as Chair of the Legislative Commission of the State of Nevada (“Senator Cannizzaro”), by and through their counsel the Legal Division of the Legislative Counsel Bureau (“LCB Legal”) under Nevada Revised Statutes (“NRS”) 218F.720, hereby file this Motion for Extension of Time Because Recent Legislative Developments Could Render Certain Issues Moot. This is the first request by the Legislative Defendants for extension of time to file the following documents. Under the stipulation and order approved on March 31, 2021, the Legislative Defendants had a filing date of Wednesday, **April 21, 2021**, to file and serve the following documents:

- (1) Opposition points and authorities in response to Plaintiffs’ motion for preliminary injunction (ECF No. 6) under LR 7-2; and
- (2) Responsive pleading to Plaintiffs’ complaint (ECF No. 1) or, in the alternative, motion to dismiss asserting defenses or objections under FRCP 12.

The Legislative Defendants are requesting a **5-day** extension until Monday, **April 26, 2021**, to file and serve these documents because recent legislative developments could render certain issues in this case moot, and the Legislative Defendants are requesting an extension of time to properly research, analyze and address these issues.

In their motion for preliminary injunction, Plaintiffs challenge Director Erdoes’ decisions to restrict or prohibit the public and registered lobbyists from entering the Legislative Building during the 81st session in order to protect the public’s health, safety and welfare and provide all services necessary to the efficient and effective operation of the Legislature amid the ongoing and widespread public-health crisis caused by the COVID-19 pandemic. (ECF No. 6 at 17-19, 22-30.)

1 During this time, Director Erdoes ensured that the LCB would enable reasonable alternative means
2 of communication which provide the public and registered lobbyists with the opportunity to
3 observe the legislative floor sessions and committee meetings and communicate with Legislators
4 without being physically present in the Legislative Building. Director Erdoes also explained that
5 after Legislators and essential staff have received both COVID-19 vaccinations, the Legislature
6 would initiate a plan to begin opening the Legislative Building to members of the public and
7 registered lobbyists to participate in committee hearings in person.

8 On Apr. 9, 2021, Director Erdoes issued a press release announcing the reopening plan for
9 the Legislative Building. On Apr. 15, 2021, the Legislative Building was reopened under certain
10 health-and-safety capacity limitations and protocols, and the public and registered lobbyists are
11 now allowed to enter the building after making an appointment and complying with the health-
12 and-safety protocols. Therefore, Director Erdoes has voluntarily ceased the conduct that was
13 initially challenged by Plaintiffs, and they are now allowed to enter the building after making an
14 appointment and complying with the health-and-safety protocols.

15 Under such circumstances, these recent legislative developments could render certain issues
16 in this case moot. See Bd. of Trustees of Glazing Health & Welfare Tr. v. Chambers, 941 F.3d
17 1195, 1198 (9th Cir. 2019) (en banc); Am. Cargo Transp., Inc. v. United States, 625 F.3d 1176,
18 1180 (9th Cir. 2010) (“The government’s change of policy presents a special circumstance in the
19 world of mootness.”). Accordingly, the Legislative Defendants are requesting an extension of
20 time to properly research, analyze and address these issues.

21 Additionally, in their motion for preliminary injunction, Plaintiffs complain that, during the
22 81st session, they have been precluded from registering as lobbyists under the Nevada Lobbying
23 Disclosure and Regulation Act (“Lobbying Act”) in NRS Chapter 218H because the Lobbying Act
24 defined the term “lobbyist” as follows:

1. “Lobbyist” means, except as limited by subsection 2, a person who:

(a) **Appears in person** in the Legislative Building or any other building in which the Legislature or any of its standing committees hold meetings; and

(b) Communicates directly with a member of the Legislative Branch on behalf of someone other than himself or herself to influence legislative action, whether or not any compensation is received for the communication.

NRS 218H.080 (2019) (emphasis added).

However, during the 81st session, the Legislature enacted legislation amending the definition of “lobbyist” to remove the appears-in-person requirement, so that the definition now reads as follows:

1. “Lobbyist” means, except as limited by subsection 2, a person who communicates directly with a member of the Legislative Branch on behalf of someone other than himself or herself to influence legislative action, whether or not any compensation is received for the communication.

NRS 218H.080 (2021) (as amended by Assembly Bill No. 110, 81st Leg., 2021 Reg. Sess., § 1 (Nev. eff. Mar. 18, 2021)). In the legislation, the Legislature also provided that:

Sec. 3. During the 81st Session of the Nevada Legislature, any person who, on or after the effective date of this act [Mar. 18, 2021], qualifies as a lobbyist pursuant to NRS 218H.080, as amended by section 2 of this act, must:

1. File a registration statement pursuant to NRS 218H.200, as amended by section 2.3 of this act, not later than 14 days after the effective date of this act, or not later than 2 days after the beginning of the person’s lobbying activity as set forth in NRS 218H.200, as amended by section 2.3 of this act, whichever date is later, unless the person qualifies for an exemption or exception from the requirements to register as a lobbyist pursuant to any regulations adopted in accordance with NRS 218H.500.

Assembly Bill No. 110, 81st Leg., 2021 Reg. Sess., § 3 (Nev. eff. Mar. 18, 2021). Consequently, Plaintiffs are now required to register as lobbyists under the Lobbying Act.

Under such circumstances, these recent legislative developments could render certain issues in this case moot. See Bd. of Trustees of Glazing Health & Welfare Tr. v. Chambers, 941 F.3d 1195, 1199 (9th Cir. 2019) (en banc) (“[I]n determining whether a case is moot, we should presume that the repeal, amendment, or expiration of legislation will render an action challenging

1 the legislation moot, unless there is a reasonable expectation that the legislative body will reenact
 2 the challenged provision or one similar to it.”). Accordingly, the Legislative Defendants are
 3 requesting an extension of time to properly research, analyze and address these issues.

4 Finally, because the attorneys of LCB Legal are currently providing bill-drafting and other
 5 legal services to the Legislature during the 81st session, they are tasked with drafting thousands of
 6 legislative bills and amendments under extreme deadlines. As a result, the Legislative Defendants
 7 are requesting an extension of time to reasonably accommodate the demands of this litigation with
 8 the demands of the legislative session.

9 For all these reasons, the Legislative Defendants are requesting a **5-day** extension until
 10 Monday, **April 26, 2021**, to file and serve the following documents:

11 (1) Opposition points and authorities in response to Plaintiffs’ motion for preliminary
 12 injunction (ECF No. 6) under LR 7-2; and

13 (2) Responsive pleading to Plaintiffs’ complaint (ECF No. 1) or, in the alternative,
 14 motion to dismiss asserting defenses or objections under FRCP 12.

15 DATED: This **21st** day of April, 2021.

16 Respectfully submitted,

17 By: /s/ Kevin C. Powers

18 **KEVIN C. POWERS**, General Counsel

19 Nevada State Bar No. 6781

NEVADA LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION

401 S. Carson St.

Carson City, NV 89701

20 Tel: (775) 684-6830; Fax: (775) 684-6761

Email: kpowers@lcb.state.nv.us

21 *Attorneys for Legislative Defendants Brenda J. Erdoes, in her official capacity*
 22 *as Director of the Legislative Counsel Bureau of the State of Nevada, and Nicole*
 23 *J. Cannizzaro, in her official capacity as Chair of the Legislative Commission of*
 24 *the State of Nevada*

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the **21st** day of April, 2021, pursuant to FRCP 5(b) and LR Part IC, I filed and served a true and correct copy of the Legislative Defendants' Motion for Extension of Time Because Recent Legislative Developments Could Render Certain Issues Moot, by using the Court's CM/ECF system for electronic service directed to the following:

SIGAL CHATTAH, ESQ.
CHATTAH LAW GROUP
5875 S. Rainbow Blvd. #203
Las Vegas, NV 89118
Chattahlaw@gmail.com
Attorneys for Plaintiffs

/s/ Kevin C. Powers
An Employee of the Legislative Counsel Bureau